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Docket No.: 246244US2SRD

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/726,606

Applicants: Masato KOYAMA, et al.

Filing Date: December 4, 2003

For: SEMICONDUCTOR DEVICE AND METHOD OF
MANUFACTURING SEMICONDUCTOR DEVICE

Group Art Unit: 2811

Examiner: VU, H.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MASATO KOYAMA ET AL : EXAMINER: VU, H.
SERIAL NO: 10/726,606 :
FILED: DECEMBER 4, 2003 : GROUP ART UNIT: 2811
FOR: SEMICONDUCTOR DEVICE AND :
METHOD OF MANUFACTURING :
SEMICONDUCTOR DEVICE

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the election requirement dated November 18, 2004, Applicants provisionally elect with traverse the species of Embodiment 1, identified in the outstanding Official Action as corresponding to Figure 1, for further examination on the merits. Applicants identify Claims 7-10 as readable on the elected species. Applicants reserve the right to file one or more divisional applications directed to the non-elected species.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct species, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Although the outstanding Official Action does not identify search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may

be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Election Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 7-22 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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